

December 7, 2010

Chairman Julius Genachowski
Commissioner Michael Copps
Commissioner Robert McDowell
Commissioner Meredith Atwell Baker
Commissioner Mignon Clyburn



RE: Fox Television Stations, Inc.
Application for Renewal of License of WNYW(TV) and
WWOR-TV and Supplement to Petition for Modification of
Permanent Waiver
File Nos. BRCT-20070201AJS and BRCT20070201AJT
MB Docket No, 07-260

Dear Mr. Chairman and Commissioners:

This letter is submitted on behalf of Media Access Project, the Office of Communication of the United Church of Christ, Inc. ("UCC"), Rainbow/PUSH Coalition and Free Press.

We are writing to urge prompt action on the long-pending matter of the renewal of the licenses of two television stations, WNYW(TV) in New York City, and WWOR-TV, Secaucus, New Jersey. The Commission's protracted inaction conveys the impression that licensees are free to abandon specific legal obligations to the public. In light of the more recent revelation of evidence that the licensee of these stations has made material misrepresentations to Commissioners and staff, has lacked candor in its statements to Commission staff and has failed to comply with the requirements of 47 CFR §1.65 to update applications within 30 days of a material change, it is especially important that the Commission move with alacrity on this case. In this letter, we summarize the misrepresentation, candor and Section 1.65 issues to demonstrate how important it is for the Commission to resolve this matter.

For convenience, the various corporate identities of the licensee are jointly referred to as "Fox."

Background

Because of the Commission's protracted failure to address the important issues raised in these matters, the procedural history has become extremely complicated. The history is largely summarized in an October 16, 2009 notice of *ex parte* presentation submitted on behalf of UCC, a copy of which is attached.

For immediate purposes, what matters is that in July 2001, the Commission granted the licensee, now known as Fox Television Stations, Inc. ("Fox"), a two-year temporary waiver of the Newspaper/Broadcast Cross-Ownership Rule to allow joint operation of WWOR-TV and *The New York Post*. Between 2003 and 2008, Fox did not comply with the divestiture requirement that was imposed on it. Nonetheless, Fox received a second two-year temporary waiver, which expired almost two years ago, in December 2008. Since then, Commission has taken no action to enforce its divestiture order. Fox filed license renewal applications for the stations in February

2007. UCC and Rainbow/PUSH Coalition filed a petition to deny challenging both applications in May 2007.

Another organization, Voice for New Jersey, separately filed a petition to deny alleging that Fox had failed to fulfill WWOR-TV's special obligation to serve the needs of northern New Jersey. These duties were described by the Commission as follows:

[W]e expect [WWOR-TV] to perform a higher degree of service to its Grade B coverage area than is normally required of a broadcast licensee. At renewal time, [WWOR-TV] will be judged by how it has met the obligation to serve the greater service needs of Northern New Jersey, which we view as higher than the specific needs of Secaucus.

Channel 9 Reallocation (WOR-TV), 53 RR2d 469, 471 (1983).

Interrelated with the license renewal applications is a pending proceeding in which the Commission authorized a corporate restructuring. UCC and Rainbow/PUSH Coalition sought reconsideration of the Commission's decision in October 2006. Reconsideration was denied in an order released in June 2009. The Commission completely ignored Free Press' opposition to the corporate restructuring; only after Free Press sought judicial relief did the Commission even address Free Press' objection, rejecting it in June 2009. Free Press' petition for reconsideration of that order is pending.

Misrepresentations

As noted above, a local citizens group named Voice for New Jersey ("VNJ") filed a petition to deny renewal of WWOR-TV. VNJ presented detailed evidence demonstrating that the licensee had failed to comply with the special statutory obligation imposed on WWOR-TV by Section 331 of the Communications Act to design its programming to give special attention to the problems, needs and interests of northern New Jersey. Central to VNJ's allegations are its claims that Fox did not carry enough news and public affairs programming addressing the problems, needs and interests of viewers residing in northern New Jersey. Fox has vigorously opposed this challenge.

Over a period of many months in 2008 and 2009, most of WWOR-TV's New Jersey operations were relocated to New York City. While WWOR-TV at one time claimed to have 250 employees in its Secaucus facility, it had no more than 75 employees there by the summer of 2009. On July 13, 2009, WWOR-TV significantly reduced its news and public affairs programming. In particular, WWOR-TV cancelled its weekend newscasts and one of WWOR-TV's two public affairs shows ("Real Time"), moved weekday newscasts from prime time (10:00 p.m.) to late night (11:00 p.m.) and cut the weekday newscasts in half, to 30 minutes.

Fox did not notify the Commission of these changes. To the contrary, in two different oral and written *ex parte* presentations on August 25, 2009, Fox's Senior Vice President, Regulatory and Government Affairs, accompanied by counsel, self-servingly misrepresented Fox's then-current programming practices. One oral and written presentation was to the Chief, Deputy Chief and Associate Division Chief of the Media Bureau. The second was to the General Counsel, Deputy General Counsel and three other members of the Office of General Counsel. The memorandum which formed the basis of these presentations described WWOR-TV's programming in the *present tense*. For example, it said;

Nightly News, Seven Days A Week. WWOR-TV's one hour nightly newscasts *spend* a substantial amount of time covering issues of importance to northern New Jersey viewers...."

(Emphasis added.) The presentations also misrepresented, among other things, the number of station employees in its Secaucus facility ("WWOR-TV...currently employs over 250 individuals") and the total amount of weekly news coverage ("WWOR-TV currently provides over 850 minutes....")

The misrepresentations were highly material to Voice for New Jersey's claims that WWOR-TV was devoting inadequate air time and resources to serving the needs of northern New Jersey viewers. For example, in denying these claims, WWOR-TV's Vice President and General Manager testified at the Commission's November 27, 2008 hearing in Newark that WWOR-TV had "over 200 employees that work at our station in Secaucus." Fox's May 30, 2007 opposition to Voice for New Jersey's petition to deny stated - at pages 1-2 - that

Since Fox acquired WWOR-TV in July 2001, the station has dedicated substantial resources to producing programming specifically targeting the various New Jersey communities that comprise the station's service area. WWOR-TV airs a one-hour nightly newscast that devotes a significant amount of time to covering issues relevant to New Jersey viewers. The station also airs *two* half-hour public affairs programs each week, which focus heavily on New Jersey issues.

(Emphasis in the original.)

Lack of Candor and Failure to Update Application

In two subsequent oral and written presentations, Fox's Senior Vice President, Regulatory and Government Affairs, accompanied by counsel, met first with Commissioner Baker's legal assistant (on September 3, 2009) and then with Commissioner Clyburn's legal assistant (on September 23, 2009). The memoranda submitted during these meetings were identical to the ones submitted during the August 25 meetings, except for one subtle, but highly material, difference: they described WWOR-TV's programming in the *past tense* and restricted the discussion to program policies in effect from "2001 until the end of its most recent license term,..." Thus, they said:

Nightly News, Seven Days A Week. WWOR-TV's *broadcast* a one-hour nightly newscast, which *spent* a substantial amount of time covering issues of importance to northern New Jersey viewers...."

(Emphases added.) The memoranda also stated that "WWOR-TV has employed over 250 individuals..." and that "WWOR-TV...provided over 850 minutes of local news...."

Despite the fact that Fox gave materially different presentations in September than in August, it took no steps to call attention to the amended provisions in its memoranda or, significantly, to notify the recipients of the August 25 presentations that there were significant misstatements in them. It did not seek to amend WWOR-TV's application to reflect the changes.

Voices For New Jersey's Objection

By letter dated November 27, 2009, VNJ complained, *inter alia*, that “the station has further reduced its schedule of news and public affairs programming...,” that “WWOR has grossly misrepresented its level of its [sic] news and public affairs programming...,” and that “WWOR has slashed staffing at its New Jersey headquarters,....”

Fox responded by letter dated January 5, 2010. In a footnote, treating the two different August 25 presentations as if they were one, it said that “Fox on its own accord, well before becoming aware of VNJ’s allegations, updated and revised the text of the [August 25] exhibit to make clear that its representations were intended only to describe the station’s performance during the license term in question.” Without making any mention of VNJ’s claim that Fox had misrepresented the number of employees in Secaucus, the January 5 letter also stated that “WWOR-TV maintains a management and production staff with more than 75 employees *in its New Jersey facility* every day.” (Emphasis in the original.)

By letter dated February 15, 2010, VNJ called attention to the disparities between the two different sets of representations, asserting that Fox’s filings

contained significant misrepresentations concerning the level of news programming, public affairs programming, and staffing currently in place at WWOR-TV. These issues are at the very core of VNJ’s petition to deny renewal....

VNJ discussed the falsity of the August 25, 2009 statements, then said that “What is even more telling is what happened (and didn’t happen) next.” It pointed out that

the appropriate course of conduct for Fox to correct its misrepresentations to the Commission is very clear. Fox could have - and should have - acknowledged its error in writing. It could have - and should have - made specific reference to the misstatements in its August Exhibit, specifically retracted those statements, and provided the Commission with corrected information.

Instead, Fox chose a course of obfuscation by means of subtle alternation....It simply submitted the revised Exhibit in its subsequent ex parte filings - and apparently hoped that no one would notice.

VNJ pointed to

two glaring problems with Fox’s approach. First, the record remains uncorrected. The representations in the revised Exhibits do not contradict or retract the statements made in the original Exhibits - in fact they repeat them, but in a limited timeframe.

Second, the revised Exhibit was never supplied to the eight staff members who received the original version. In fact, only two members of the Commission staff attended subsequent meetings and received the revised Exhibit.

Applicable Law

“The FCC relies heavily on the honesty and probity of its licensees in a regulatory system that is largely self-policing. *See Leflore Broad. Co. v. FCC*, 636 F.2d 454, 461 (D.C.Cir.1980) (“[E]ffective regulation is premised upon the agency's ability to depend upon the representations made to it by its licensees....”).” *Contemporary Media, Inc. v. FCC*, 214 F.3d 187, 193 (D.C. Cir. 2000).

Intentional misrepresentation of material facts to the Commission is an extremely serious matter which “can result, by [itself], in disqualification.” *Swan Creek Communications, Inc. v. FCC*, 39 F.3d 1217, 1222 (D.C. Cir. 1994). The Commission places heavy reliance on the “completeness and accuracy of the submissions made to it.” *RKO General v. FCC*, 670 F.2d 215, 232 (D.C. Cir. 1981). “The act of willful misrepresentation not only violates the Commission’s rules; it also raises immediate concerns over the licensee’s ability to be truthful in any future dealings with the Commission.” *Character Policy Statement*, 102 FCC2d 1179, 1209 (1986).

Lack of candor is the failure of an applicant “to be fully forthcoming as to all facts and information relevant to a matter before the FCC, whether or not such information is particularly elicited.” *Swan Creek, supra*, 39 F.3d at 1222. The Commission regards lack of candor as a form of misrepresentation which is of equal consequence:

Misrepresentation and lack of candor can indeed be distinguished in their manifestations: the former involves false statements of fact, while the latter involves concealment, evasion, and other failures to be fully informative. But both misrepresentation and lack of candor represent deceit; they differ only in form. * * * *
We also disavow the suggestion that lack of candor is inherently less serious than misrepresentation. The seriousness of either offense depends on the facts and circumstances of the particular case.

Fox River Broadcasting, Inc., 93 FCC2d 127, 129 (1983). *See also Character Policy Statement, supra*, 102 FCC2d at 1196 (“Deceit is equated with fraud.”). For this reason, the Commission has said that it “view[s] misrepresentation and lack of candor in an applicant’s dealings with the Commission as serious breaches of trust.” *Id.*, 102 FCC2d at 1211.

The fact that a presentation may be truthful when viewed in isolation does not resolve a candor question because the statement may be incomplete or misleading in context. As the Commission said in *RKO General, supra*, 670 F.2d at 230, “We need not decide whether RKO’s pleadings were affirmatively misleading - it is enough to find that they did not state the facts.”¹

Because the continuing accuracy of information supporting applications to the Commission is so important, 47 CFR §1.65 imposes an ongoing responsibility to keep such information up to

¹The importance of candor has increased over time. “The Commission must rely on the absolute candor of applicants - more so now than ever because our license application forms rely increasingly on bare representations and on documentation.” *Superior Broadcasting of Virginia*, 94 FCC2d 904, 909 (Rev. Bd. 1983). Since the Commission ceased collecting detailed information about past and promised programming some 25 years ago, presentations such as those in this case have taken on far greater significance.

date. Section 1.65(a) provides in pertinent part that

Each applicant is responsible for the continuing accuracy and completeness of information furnished in a pending application or in Commission proceedings involving a pending application. * * * * Except as otherwise required by rules applicable to particular types of applications, whenever there has been a substantial change as to any...matter which may be of decisional significance in a Commission proceeding involving the pending application, the applicant shall as promptly as possible and in any event within 30 days, unless good cause is shown, submit a statement furnishing such additional or corrected information as may be appropriate,...

Violations of Section 1.65 are a “variant of lack of candor....” *Fox River Broadcasting Inc.*, 88 FCC2d 1132, 1133 (Rev. Bd. 1982), *aff’d*, *Fox River Broadcasting Co.*, 93 FCC2d 127 (1983). *See also, RKO General, supra*, 670 F.2d at 229 (treating Section 1.65 violation as indicative of lack of candor). The affirmative nature of Section 1.65 is essential to Commission operations, as is the breadth of its application.² Thus, in enforcing Section 1.65, the Commission has said that “As the Commission has cautioned, ‘[m]erely standing back and waiting for disaster to strike or for the Commission to become aware of it will not insulate corporate owners from the consequences of misconduct.’” *SBC Communications, Inc.*, 16 FCCRcd 19091, 19119 (2001) (*quoting Character Policy Statement*, 102 FCC2d 1179, 1218 (1986)).

Analysis

Although Fox bragged to the Commission in its application, pleadings, and in oral testimony about its programming and staffing commitments to northern New Jersey, it failed to notify the Commission when it made significant cutbacks. Rather, it materially misrepresented the facts as to its programming and staffing. These false statements were made to the Chief of the Media Bureau and to the General Counsel. These individuals and their staff are the most important decisionmakers with respect to the processing of the WWOR-TV renewal. Indeed, the Chief of the Media Bureau can act on the WWOR-TV renewal application by delegated authority.

These misstatements, standing alone, justify designation of a hearing to examine whether Fox intentionally made material misrepresentations to the Commission. They were not made in an incidental way. They were not minor errors buried in a long pleading or exhibit. They were made, and repeated, by a high level corporate officer, accompanied by counsel. The claims were made - twice - to key Commission decisionmakers in a prominent presentation going to a central issue in a pending license renewal challenge.

Fox significantly compounded its misrepresentations by making carefully disguised and intentionally obscure revisions to its statements in presentations to two assistants to Commissioners. While these are certainly important individuals, they are not in the chain of command which prepares and drafts Commission or staff decisions. While the new presentations were more

²By its terms, Section 1.65 applies not just to information in the original application, but to “any other matter” which may be of decisional significance (as well as the updating of previously reported data).” *Omaha 54 Broadcasting Group, Limited Partnership*, 3 FCCRcd 870, 872 (Rev. Bd. 1988).

truthful than the prior statements, they were clearly designed to obscure the record, rather than clarify it. In particular, they did not call attention to the fact that they represented significant changes in Fox's application or, more importantly, that they differed from what was presented to the Chief of the Media Bureau and the General Counsel. These presentations lacked candor, because they left the recipients - and the Commission record - in the dark about the fact that there had been prior misrepresentations. They were also incomplete, in that they did not tell the two staffers, much less the rest of the Commission, that in July, 2009, Fox had cut its news programming in half and eliminated one of the two New Jersey-oriented public affairs shows on WWOR-TV. Nor did they explain that WWOR-TV had moved or eliminated 175 positions in Secaucus, New Jersey, leaving only about 75 people there.

Fox's conduct also violated 47 CFR §1.65. First, Fox arguably should have informed the Commission of these changes within 30 days of July 13, 2009. Second, and more importantly, Fox failed in its duty to call the Commission's attention to the prior misstatements, and to correct them unambiguously.

Even after Voice for New Jersey called attention to the misrepresentations, Fox did not "come clean." It attempted to make light of the problems it had created by responding - in a footnote - that it had "updated and revised" its representations "to make clear that its representations were intended only to describe the station's performance during the license term in question." The obscurity of Fox's changes, the individuals to whom they were presented, and the failure to call attention to the prior misrepresentation all belie any claim that Fox was "making clear" what had transpired. Moreover, Fox did not even attempt to argue that its reference to the number of employees in New Jersey related only to practices "during the license term."

Conclusion

There are two non-frivolous license renewal challenges to Fox's New York/New Jersey stations which have been pending for more than three years. Fox has now engaged in serious misconduct in violation of Commission rules and policy. The time is long overdue for the Commission to designate a hearing on Fox's applications.

Respectfully submitted,



Andrew Jay Schwartzman

cc. William Lake, Chief, Media Bureau
Robert Ratcliffe, Deputy Chief, Media Bureau
Barbara Kreisman, Chief, Video Division, Media Bureau
Rick Kaplan, Chief Counsel and Senior Legal Advisor to the Chairman
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October 16, 2009

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: *Fox Television Stations, Inc. Application for Renewal of License of WNYW(TV) and WWOR-TV and Supplement to Petition for Modification of Permanent Waiver, File Nos. BRCT-20070201AJS and BRCT-20070201AJT, and MB Docket No. 07-260*

Dear Ms. Dortch:

On October 15, 2009, Cheryl Leanza, Managing Director of the Office of Communication of the United Church of Christ, Inc. ("UCC"), and Angela Campbell, Adrienne Biddings, and Charles Rosson of the Institute for Public Representation, met with Mona Baghdadi, Amy Brett, Molly Fitzgerald, David Roberts, and Sarah Whitesell of the Media Bureau to discuss the above-referenced Fox license renewals and waiver petition, which the Media Bureau has afforded permit-but-disclose status under the *ex parte* rules.

UCC provided the staff with copies of the attached "Fox Ownership Chronology." UCC expressed concern that although the FCC's approval of Fox's acquisition of WWOR in July 2001 had been conditioned on its compliance with the newspaper-broadcast cross-ownership (NBCO) rule within 24 months, it has been more than eight years, and Fox still has not complied with the NBCO rule. In addition, although Fox sought and received a second temporary waiver, that waiver expired in December 2008.

UCC expressed concern that the FCC had not required Fox to comply with the NBCO rule upon the expiration of its waiver. UCC questioned the legal basis for Fox's contention that an expired waiver remains in effect until the FCC acts on a request for extension. UCC stated that this interpretation encourages other broadcasters to violate waivers. UCC suggested that the FCC should require broadcasters to notify it when a waiver is going to expire, possibly sixty days in advance..

UCC reiterated arguments previously made in its *Opposition to Supplement to Petition for Modification of Permanent Waiver* filed July 15, 2009, that whether the FCC applies the original NBCO waiver criteria or the revised waiver criteria, Fox has failed to show that the public interest would be served by granting any further waivers.

UCC further expressed concern that the FCC still had not acted on the petition to deny Fox's license renewals filed by UCC and Rainbow/PUSH in May 2007. Moreover, almost two years had passed since the Media Bureau held a public forum in Newark, NJ to receive public input on the sufficiency of WWOR-TV's program service to Northern New Jersey. Delays of this nature undermine public confidence and are not in the public interest.

An original and two copies of this letter are being submitted to the Secretary's office in addition to being filed electronically as part of MB Docket No. 07-260.

Respectfully Submitted,

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FOX OWNERSHIP CHRONOLOGY

- 1976** -Fox purchased the New York Post.
- 1986** -Fox acquired WNYW, a television station located in the New York DMA, and pursuant to its 1985 license transfer, was given two years to divest its interests in the New York Post. *Metromedia Radio & Television, Inc.*, 102 FCC2d 1334 (1985).
- Mar. 1988** -Pursuant to the FCC's two year divestiture requirement, Fox sold the New York Post to real estate developer Peter S. Kalikow.
- 1993** -Fox reacquired the New York Post after Mr. Kalikow's financial difficulties led the paper's parent company to declare bankruptcy.
- Fox requested and received a permanent waiver of the NBCO rule to allow common ownership of the New York Post and WNYW. *Fox Television Stations Inc.*, 8 FCC Rcd 5341, 5354 (1993).
- Sept. 2000** -Fox proposed to acquire ten television stations from Chris-Craft Industries, Inc., including WWOR-TV, another television station located in the New York DMA.
- Fox argued that its 1993 permanent waiver should extend to its acquisition of WWOR-TV, or in the alternative, that it should receive an "interim waiver" until the conclusion of the 2002 Biennial Regulatory Review of the Commission's broadcast ownership rules.
- UCC, Rainbow/PUSH, and others opposed Fox's acquisition of WWOR-TV.
- July 2001** -The Commission granted Fox a "temporary 24-month waiver within which to come into compliance with the" NBCO by divesting *The New York Post* or either of its two New York television stations. *UTV of San Francisco, Inc.*, 16 FCC Rcd 14975 (2001). In an unpublished opinion, the D.C. Circuit affirmed the FCC's ruling. It found that the FCC had made an adequate public interest finding to approve the transfer, noting that "[a]lthough Fox could not fully complete Form 314 because it required waivers, to the extent that Fox required these waivers, the Commission found that granting temporary waivers would serve the public interest, and, therefore, the acquisition was in the public interest." *Office of Commc'n of the United Church of Christ v. FCC*, 51 Fed. Appx. 21 (2002). The Commission granted the waiver in order to permit an orderly disposition of assets and avoid forced sales. 16 FCCR at 14989.
- The Commission rejected Fox's claim that the 1993 permanent waiver extended to the acquisition of WWOR-TV because a waiver granted during one set of market conditions "is not automatically extended to cover new combinations several years later under potentially changed market conditions." *Id.* at 14977.

- June 2003** -The Commission relaxed the NBCO rule and replaced the rule with cross media limits allowing cross-ownership in most markets. *2002 Biennial Regulatory Review*, 18 FCCR 13620 (2003).
- July 2003** -Fox's two-year temporary waiver expires without Fox having made any effort to come into compliance with the rule.
- Sept. 2003** -The Third Circuit stayed the Commission's new rule, ordering that the old rule remain in effect pending judicial review. *Prometheus Radio Project v. FCC*, 373 F.3d 372 (3d. Cir. 2003).
- July 2004** -The Third Circuit reversed the FCC's change to the NBCO and clarified that the old NBCO would remain in effect pending judicial review of the FCC's decision on remand. *Id.*
- Fox still had made no efforts to come into compliance with the NBCO as the Commission ordered 3 years prior in July 2001.
- Sept. 2004** -Fox filed a "Petition for Modification of Permanent Waiver," requesting that the Commission either permit common ownership of WWOR-TV, WNYW, and *The New York Post*, or to grant an additional temporary waiver until after the Commission's action on remand from the 2002 Biennial Regulatory Review.
- 2005** -While its 2004 waiver request was pending, Fox underwent a corporate restructuring necessitating FCC approval, and filed a Form 315 transfer of control application with a copy of the 2004 waiver request attached.
- Oct. 2006** -Almost three years after the FCC's 2001 two-year waiver expired for WWOR-TV, the FCC voted three to two to approve the transfer of control of WWOR-TV and WNYW. *K. Rupert Murdoch, (Transferor) and Fox Entertainment Group (Transferee)*, 21 FCCR 11499 (2006). The FCC has withheld the dissents of both Commissioners Adelstein and Copps.
- The FCC granted a new permanent waiver for WNYW and *The New York Post*, and granted a new temporary waiver permitting continued common ownership of WWOR-TV until December 27, 2008. *Id.*
- The temporary waiver for WWOR-TV was granted to provide "sufficient certainty to assure that [Fox] and News Corp. will continue to take appropriate action or expend necessary capital to preserve and expand *The New York Post* without a concern that it would have to forfeit that investment by closing the newspaper or by a forced sale of a media interest at an artificially depressed price to achieve compliance with the multiple ownership rules." *Id.* at 11502.

- Nov. 2006** -The UCC and Rainbow/PUSH filed a petition with the FCC, asking it to reconsider and reverse its October 2006 Order.
- Feb. 2007** -Fox filed license renewal applications for WNYW and WWOR-TV. *See* http://fjallfoss.fcc.gov/cgibin/ws.exe/prod/cdbs/forms/prod/cdbsmenu.hts?context=25&appn=101167338&formid=303&fac_num=74197.
- May 1, 2007** -UCC and Rainbow/PUSH opposed these applications.
- Nov. 28, 2007** - Media Bureau holds public forum in Newark, NJ to receive public input regarding sufficiency of WWOR-TV's programming effort in New Jersey.
- Feb. 2008** -The Commission released its 2006 Quadrennial Review, relaxing the NBCO, and abandoning the cross media limits adopted in 2003. The implementation of the Commission's relaxed NBCO is still under a stay pending the Third Circuit's review of the rule.
- Although numerous licensees with outstanding license applications were referenced in the Commission's Order, Fox was not mentioned.
- June 23, 2008** -Fox Files Supplement to Petition for Modification of Waiver, sought waiver under either old or new test
- June 30, 2008** -UCC/Rainbow Push letter. Intend to respond. Ex parte rules apply
- July 23, 2008** -Fox request permit but disclose treatment.
- Dec 24, 2008** -Fox letter. States belief that temporary waiver remains in effect pending action on merits; asks FCC to take into account "economic turmoil."
- May 22, 2009** -FCC releases order adopted Jan. 15, 2008, denying UCC's Pet for recon. of transfer for failure to demonstrate good cause.
- July 15, 2009** - UCC files opposition to Fox's Supplement to Petition for Modification of Permanent Waiver
- Sept. 15, 2009** - Fox files reply to UCC July 15 opposition.